

## **MINUTES OF JANUARY 5, 2015**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 5, 2015, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with James Sharp – Assistant County Attorney, and staff members, Mr. Lawrence Lank – Director of Planning and Zoning, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda with Case No. 11476 – Donald E. Radcliffe & Karen A. Radcliffe under Old Business to be discussed prior to the public hearings. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Minutes and Finding of Facts for November 3, 2014 as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

### **OLD BUSINESS**

**Case No. 11476 – Donald E. Radcliffe & Karen A. Radcliffe** – northeast of Road 298 (Legion Road) and being southeast corner of Joanne Drive and Stacey Drive and being Lot 34 within John Burton Manor Subdivision (911 Address: 220 Joanne Drive, Millsboro, DE) (Tax Map I.D. 2-34-29.00-863.00)

An application for a special use exception for a recovery home.

The Board discussed the case, which has been tabled since December 15, 2014.

Mr. Workman abstained from the discussion since he was not in attendance for the public hearing.

Mr. Rickard stated that he has reviewed the law and the testimony and found that there was no evidence that the use will substantially adversely affect the uses of neighboring and adjacent properties; that the littering in the area could have been from anyone in the area; that no police reports were provided which indicated that there have been incidents related to the home; that the opposition's concerns are fear driven and not substantiated; that the recovery home has been in operation for a year and a half without incident; and that the residents of the recovery home are a protected class and have a right to live in the neighborhood.

Mr. Mills stated that the opposition seems to be a small group of new neighbors led by one (1) long term resident; that the majority of long term residents in the neighborhood did not appear

in opposition to the Application; that there was no proof provided that this residence was creating any issues; that no police reports have been filed; that there was no evidence to suggest that there were problems coming from the use of the house; and that the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Mr. Hudson stated that he agrees with Mr. Rickard and Mr. Mills and added that the recovery home has been in operation for over a year without incident; and that he recommends the approval come with the stipulation that only six (6) male residents may live in the home at a time.

Mr. Callaway stated that there was no documentation submitted to show the use would have a negative impact to the surrounding property values; that there were no police reports or calls to the residence since in operation; and that there are other entities in the area that could have contributed to the littering and loitering in the neighborhood.

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception Application No. 11476 for the requested special use exception based on the record made at the public hearing and because the use does not substantially affect adversely the uses of adjacent and neighboring properties with the stipulation that only six (6) residents live in the home at a time.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for the reasons stated and with the stipulation that only six (6) male residents can live at the recovery home at a time.** Motion carried 4 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

### **PUBLIC HEARINGS**

**Case No. 11505 – June C. Aiello** – northwest of Road 283 (Postal Lane) approximately 1,650 feet northeast of Road 275 (Plantation Road) (911 Address: 34391 Postal Lane, Lewes, DE) (Tax Map I.D. 3-34-6.00-462.00)

An application for a variance from the front yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Robert Ritter was sworn in to testify about the Application. Raymond Tomasetti, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Tomasetti stated that the Applicant is requesting a variance of 6.5 feet from the forty (40) feet front yard setback requirement for an existing front stoop; that Mr. Ritter was the previous owner of the Property from 2005 to 2014; that a survey completed in 2005 did not show the front stoop of the house; that the survey completed in 2014 showed the front stoop and the encroachment into the front yard setback; that the front stoop is approximately seventeen (17) inches high; that the front stoop was built with the existing dwelling over thirty (30) years ago; that the Property is unique due its topography; that the lot measures 99 feet wide by 169 feet deep; that the stoop will not be detrimental to the public welfare; that the difficulty was not created by the Applicant; that the stoop will be in conformity with other homes in the neighborhood that have stoops; that the variance does not alter the character of the neighborhood; that the stoop is uncovered; and that the variance requested is the minimum variance to afford relief.

Mr. Ritter testified that he was the owner of the Property from 2005 to 2014; that the front stoop was there when he purchased the Property; and that the stoop was built with the original construction of the home.

Mr. Tomasetti stated that Mr. Ritter was unaware of the encroachment when he purchased the home because he relied on the survey at that time.

Mr. Ritter confirmed the statements made by Mr. Tomasetti as being true and correct.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11505 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size and the situation is unique because the Applicant inherited the difficulty;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11506 – VRNS II, LLC** – at intersection southwest of DuPont Boulevard (U.S. Route 113) and northeast of Handy Road (Road 337) (911 Address: 28880 DuPont Boulevard, Millsboro, DE) (Tax Map I.D. 2-33-5.00-99.00)

An application for a special use exception to place an off-premise sign and a variance from the required separation requirement from a dwelling.

Mr. Lank presented the case and stated that the Office of Planning and Zoning received one (1) letter from Delmarva Power in support of the Application.

Nino Desai was sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicant is requesting a special use exception to place an off-premise sign and a variance of 125 feet from the three hundred (300) feet separation requirement from a dwelling; that the Property is located on Route 113 south of Millsboro at the intersection with Handy Road; that Millsboro Discount Liquor store exists on the Property; that the Property is zoned commercial; that the Property is irregularly shaped and comes to a point; that the proposed billboard is a steel monopole that will meet all required setback requirements from property lines and square footage and height requirements for a billboard; that the Applicant needs a variance from the separation distance requirement as the proposed billboard is to be located 175 feet from an abandoned residential structure; that the Property is unique in shape and due to its frontage on both Route 113 and Handy Road; that the Property has double front yard setbacks; that the Applicant was able to place the billboard in compliance with the double front yard setback requirements; that an abandoned dwelling on nearby lands creates the need for the separation variance requested; that the owner of the abandoned dwelling, Delmarva Power, plans to demolish the dwelling in the future; that Delmarva Power recently obtained a change in zone to CR-1 in October 2014; that Delmarva Power has confirmed its intent in a letter submitted to the record; that the proposed billboard will not substantially adversely affect the uses of neighboring and adjacent properties; that billboards are consistent with the character of the neighborhood; that there are billboards located across the street; that the area around the Property is a developing commercial corridor; that other businesses have been established in the area south of Millsboro along Route 113; that the proposed billboard will not have an adverse effect on these neighbors; that no objection to the proposed billboard has been raised to the Applicant; that the abandoned residential dwelling will be demolished and will not be used as a residence; that the Property is unique in shape and fronts on two (2) roads; that the variance is necessary to enable reasonable use of the Property; that billboards are permissible on commercially zoned properties; that the Applicant did not place the residential structure on the neighboring property and that structure is being torn down anyway; that the difficulty was not created by the Applicant; that the variance will not alter the essential character of the neighborhood; that the proposed use is consistent with uses in the neighborhood; that the variance is the minimum variance to afford relief; and that the

Applicant took great steps to minimize the need for additional variances by placing the proposed billboard in this location.

Mr. Desai confirmed the statements made by Mr. Hutt as being true and correct. Mr. Desai testified that there are some signs on the wall but the signs along Route 113 as shown in the pictures in Tab #4 of the exhibit book have been removed.

Mr. Lank informed the Board that additional wall signs have not been approved.

Mr. Hutt stated that the majority of billboards in the area are leased but he did see one billboard that was not leased; that the Applicant would not be seeking a variance if Delmarva Power demolished the residential structure; and the proposed billboard will be leased immediately following construction.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to have the **Planning & Zoning Department investigate the current signs on the Property and report back to the Board on January 26, 2015.** The case was left open for this limited purpose. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11507 – Toby J. Chrostowski and Alexandra M. Chrostowski** – west of Coastal Highway (Route One) and being north of Baltimore Street approximately 225 feet west of Andrew Street and being Lot 18, First Addition to Bay View Park Subdivision (911 Address: 39667 Baltimore Street, Bethany Beach, DE) (Tax Map I.D. 1-34-20.11-34.00)

An application for a variance from the front yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning received two (2) letters in support to the Application and had not received any correspondence in opposition to the Application.

Toby Chrostowski was sworn in to testify about the Application. John Sergovic, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Sergovic stated that the Applicants are requesting a variance of five (5) feet from the thirty (30) feet front yard setback requirement for a proposed dwelling; that the lot measures 7,020-square-feet in size; that a minimum lot in an MR (Medium Residential) district is 10,000-square-feet in size; that the size of the Property is unique; that homes on neighboring properties also

encroach into the front yard setback area; and that almost all structures on the other side of the street violate the front yard setback requirements.

Mr. Chrostowski testified that he plans to demolish the existing dwelling and build a new home; that he plans to retire to the Property; that he plans to build a slightly larger home so that his children and grandchildren will visit; that the existing home does not comply with the flood plain elevation; that he would need to raise the home two (2) feet to comply with the flood plain elevation; that the existing structure has a porch only 13.7 feet from the front property line but the house is 25 feet from the front property line; that the proposed dwelling will be the same distance from the front property line as the existing dwelling but not the existing porch; that the existing dwelling violates the side yard setback requirement; that the proposed dwelling will meet the side yard setback requirements; that he plans to garden in the backyard; that he intends to conform with the uses of neighboring properties; that the placement of the dwelling is consistent with other dwellings in the neighborhood; that the variance will not have a detrimental effect on the neighborhood; and that the modification he requests is the minimum variance necessary to afford relief.

Mr. Chrostowski, under oath, confirmed the statements made by Mr. Sergovic.

Mr. Chrostowski testified that the new dwelling will meet flood zone requirements; that he hopes to have approximately twelve (12) feet to use for his rear yard after construction of the new dwelling; that the rear yard is currently fifteen (15) feet deep; that the proposed size of the dwelling will accommodate his family; and that the proposed dwelling will be further from the road than the existing dwelling.

Mr. Sergovic stated that the porch to the existing dwelling will be removed; that the existing dwelling is 25 feet from the road; that the proposed dwelling will be constructed 25 feet from the road but will conform with the side and rear yard setback requirements; and that the dwelling will be in alignment with other structures in the neighborhood.

Mr. Chrostowski testified that the proposed three (3) story dwelling will be approximately 3,300-square-feet in size; that the proposed dwelling will have storage and parking underneath; that the existing dwelling has no storage; that the Property is on central sewer; that the rear yard has flooded in the past; that the flood waters have come 5-6 feet into the rear yard; that he plans to park cars under the proposed dwelling; that he cannot park under the house right now; that water came within six (6) inches of the house during Hurricane Sandy; and that the rear yard was flooded during Hurricane Sandy.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to take the case under advisement. Motion carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11507 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size because it is only 70 feet wide and is subject to flooding;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance represents the least modification of the regulations at issue.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried that the variance be **granted for the reasons stated**. Motion carried 4– 1.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Callaway – yea, and Mr. Workman – nay. Mr. Workman stated that he believed the Applicants were creating their own difficulty.

**Case No. 11508 – Carol Szugai & Paul Szugai** – west of Coastal Highway (Route One) and being west of Hassell Avenue and east of Lagoon and begin Lot 83, Second Addition to Bay View Park Subdivision (911 Address: 34969 Hassell Avenue Ext., Bethany Beach, DE) (Tax Map I.D. 1-34-20.11-23.00)

An application for variances from the side yard and front yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

John Tomlinson was sworn in and testified requesting a variance of 0.5 feet from the ten (10) feet side yard setback requirement for an existing dwelling and a variance of six (6) feet from the thirty (30) feet front yard setback requirement for a proposed covered landing and addition; that he is the contractor for the Applicants; that the Applicants plan to raise the dwelling six (6) feet due to flooding issues and to construct an addition in the front yard; that the dwelling is on a block foundation; that the dwelling was built originally as a summer home; that the Applicants' disabled mother is moving in with them; that the proposed addition will provide more handicap accessible living space for her; that the existing dwelling is two (2) stories tall; that the dwelling will not exceed the maximum allowable height requirement of forty-two (42) feet when raised; that the Applicants' mother uses a walker and the Applicants expect that she will need a wheelchair in the future; that the kitchen, bedroom, and bathroom are rather small; that the addition will include a larger bathroom to allow better access for the Applicants' mother; that the Applicants live on the Property full-time; that the dwelling cannot be moved elsewhere on the lot because it

is on a concrete foundation; that the curved front property line creates a uniqueness to the Property; that the existing dwelling was flooded during Hurricane Sandy; that the HVAC units will be located under the front porch; that the difficulty was not created by the Applicants; that the Applicants were not aware of encroachment into the side yard setback until a survey was completed; that other homes in the area are larger than this dwelling; that the Applicants hope that the improvements will increase the value of the Property; that the flooding of the Property created the need to raise the house; that the disability of the Applicants' mother has created the need for the addition; that the need for the variances has not been created by the Applicants; that the variances will not alter the character of the neighborhood; and that the variances requested represent the minimum variances to afford relief.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11508 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The need to raise the dwelling and shape of the Property make the Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11509 – Peggy M. Lee & Ralph W. Weis** – north of Road 207 (Fitzgeralds Road) approximately 900 feet east of Route 42 (Union Church Road) (911 Address: 16443 Fitzgeralds Road, Lincoln, DE) (Tax Map I.D. 1-30-6.00-44.01)

An application for a variance from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Mr. Sharp advised the Board that his firm has represented the Applicants in the past and that if the Board had questions, the Board should direct them to Vince Robertson, Esquire.



Peggy Lee and Ralph Weis were sworn in and testified requesting a variance of 2.1 feet from the fifteen (15) feet side yard setback requirement for an existing dwelling.

Mr. Weis testified that the attached garage encroaches into the side yard setback requirement; that the Applicants purchased the Property in 2005 and were not aware of the encroachment until a recent survey was completed; and that the Property is being sold.

Ms. Lee testified that that the dwelling and attached garage were built between 1991 and 2005; that she purchased the Property in 2005; and that she did not obtain a survey at that time.

Mr. Weis testified that due to the angle of the front property line and the existing road the dwelling was constructed at an angle; that the angled property line creates a uniqueness to the Property; that the Property cannot otherwise be developed in strict conformity; that the variance is necessary enable reasonable use of the Property; that the difficulty was not created by the Applicants; that the variance does not alter the essential character of the neighborhood; that the houses in the neighborhood are located far apart; and that the variance is the minimum variance to afford relief.

Ms. Lee testified that Parcel 1 and Parcel 2 shown on the survey have been combined into one lot.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11509 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The shape of the lot makes the Property unique;
2. The dwelling was built to parallel the road;
3. The variance is necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicants;
5. The prior owner created the exceptional practical difficulty;
6. The variance will not alter the essential character of the neighborhood; and
7. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11510 – White House Beach, Inc.** – south of Route 23 (Long Neck Road) and being north of West Harbor Drive and being Lot 608 within White House Beach a Mobile Home Park (911 Address: 35007 West Harbor Drive, Millsboro, DE) (Tax Map I.D. 2-34-30.00-6.00-Unit 45879)

An application for a variance from the separation requirement between units in a mobile home park.

Mr. Lank presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application and had not received any correspondence in opposition to the Application.

John Barwick, of Karin and Associates, was sworn in and testified requesting a variance of 4.5 feet from the twenty (20) feet separation requirement between units in a mobile home park; that the Property is unique because the manufactured home has a sliding glass door next to the front door but there are no steps or landing in front of the sliding glass door; that the existence of the sliding glass door posed a safety hazard; that the existing deck was constructed to provide a safe access to and from the existing manufactured home; that, if the dimensions deck would be reduced to comply with the Sussex County Zoning Code, the deck would be too narrow to provide for typical use of the deck such as use of the space for a barbeque; that the deck was built with no intention to violate the Sussex County Zoning Code; that the contractor made an oversight when constructing the deck which led to the encroachment; that the Applicant was not aware of the encroachment until notice of the violation was sent from the Planning & Zoning Department; that there should be no effect on neighboring properties; that the adjacent neighbor affected by the encroachment has no objection to the Application as evidenced by the letter of support received by the Office of Planning & Zoning; that the variance will not be detrimental to the public welfare; that the variance will represent the least modification possible of the regulation at issue; and that the deck would have to be cut to an irregular shape in order to comply with the Sussex County Zoning Code and would restrict the owner's practical use of the Property.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11510 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The physical aspects of the Property and the access to the manufactured home make this property unique;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and

5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

**Case No. 11511 – Bruce Stoehr** – north of Route 54 and being located at the southwest corner of Bayville Shores Drive and Bayview Circle East and being Lot 127 of Bayview Landing Subdivision (911 Address: 37872 Bayview Circle East, Selbyville, DE) (Tax Map I.D. 5-33-13.00-147.00)

An application for a variance from the corner front yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Bruce Stoehr was sworn in to testify about the Application. Raymond Tomasetti, Esquire, presented the case to the Board on behalf of the Applicant and submitted letters of support to the Application.

Mr. Tomasetti stated that the Applicant is requesting a variance of 8.1 feet from the thirty (30) feet front yard (corner) setback requirement for a proposed attached shed; that the Applicant purchased the Property October 6, 2014; that the Applicant seeks to attach his shed to the dwelling; that the lot is a corner lot with a thirty (30) feet setback requirement; that the Homeowners Association Architectural Review Committee supports the Application; that there is an existing buffer which will block any view of the proposed attached shed from Bayville Shores Drive; that the shed is a reasonable use of the Property; that there will be no effect on surrounding properties because there will be a sufficient buffer; that the shed will add to the beauty to the neighborhood; that the shed is the minimum size needed for the Applicant to use the shed; and that there have been other variances granted in the development.

Mr. Stoehr, under oath, confirmed the statements made by Mr. Tomasetti. Mr. Stoehr testified that he plans to attach the shed for convenience and accessibility; that the proposed attached shed will be accessed through an existing door in the existing attached garage; and that he has upcoming knee surgery and he is concerned about being able to access a shed safely in the rear yard.

Mr. Lank stated that the standard corner side yard setback requirement is fifteen (15) feet from a lot but this development was designed to maintain thirty (30) feet from all property lines fronting on a street.

Mr. Stoehr testified that the garage is too small for his woodworking hobby and that the shed will provide better access and security if it is attached.

Mr. Tomasetti stated the lot is unique; that the variance will enable reasonable use of the Property; that the variance will not alter the essential character of the neighborhood; that the variance is the minimum variance necessary; and that the difficulty was not created by the Applicant because the Applicant did not create the setback.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11511 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The thirty (30) feet setback requirement creates a uniqueness to the Property;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11512 – Doug Frampton & Lisa Frampton** – south of First Street approximately 410 feet east of Bald Eagle Road (Road 273A) and being Lots 50, 51, and 52 within Bay Vista Subdivision (911 Address: 37436 1<sup>st</sup> Street, Rehoboth Beach, DE) (Tax Map I.D. 3-34-19.16-14.00)

An application for a variance from the front yard, side yard, and rear yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Doug Frampton was sworn in and testified requesting a variance of six (6) feet from the thirty (30) feet front yard setback requirement for a proposed porch and deck, a variance of one (1) foot from the five (5) feet side yard setback requirement for a proposed shed, and a variance of one (1) foot from the five (5) feet rear yard setback requirement for a proposed shed; that the proposed porch and deck will provide a safer access to the dwelling and provide protection from the weather; that the Applicants plan to install a pool in the backyard; that the proposed shed will be used to house the pool equipment and to provide storage for the Property; and that there is no garage on the Property. Mr. Frampton requested more time to review the standards for granting a variance.

The Board recessed for ten (10) minutes.

Mr. Frampton testified that the Property is unique since the existing dwelling was built in the dead center of the Property; that the Applicants cannot build into the front yard without a variance due to the location of the dwelling; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the variances will not alter the character of the neighborhood; that the front deck is needed for protection from the weather; that the variances will enable reasonable use of the Property; that the proposed shed will be approximately six (6) to eight (8) feet from the proposed pool when completed; that there is no other storage shed or garage on the Property; that the proposed location of the shed is the only place where it could be located; and that the Applicants believe previous owners buried a pool in the southwest corner of the back yard.

Mr. Lank stated that there have been thirty-six (36) variances granted in the neighborhood.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11512 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size and it is difficult to place anything on the lot;
2. The previously buried pool limits the placement of the proposed pool and shed;
3. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The variances are necessary to enable reasonable use of the Property;
5. The exceptional practical difficulty was not created by the Applicants;
6. The variances will not alter the essential character of the neighborhood; and
7. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

### **OLD BUSINESS**

**Case No. 11504 – Loblolly, LLC** – west of Coastal Highway (Route One) and north of Route 5 (Union Street Extended) (911 Address: None Available) (Tax Map I.D. 2-35-7.00-43.00)

An application for a special use exception to place two (2) off-premise signs and for variances from the maximum square footage requirement, height requirement, side yard setback, and the minimum separation requirement between off-premise signs.

The Board discussed the case, which has been tabled since December 15, 2014.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until January 26, 2015**. Motion carried 5 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Meeting Adjourned 10:00 p.m.**